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defined in part 76, subpart E of this chapter) over the video programming it distributes.

[58 FR 42249, Aug. 9, 1993]

§21.921 Basis and purpose for electronic filing and competitive bidding process.

(a) Basis. The rules for competitive bidding procedures for the Multipoint Distribution Service (MDS) in this part are promulgated under the provisions of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmission and to issue licenses for radio stations, and §309(j) of the Act, which vests authority in the Commission to conduct competitive bidding.

(b) Purpose. This part states the conditions under which portions of the radio spectrum are made available and licensed for Multipoint Distribution Service via the competitive bidding procedures.

(c) Scope. The rules in this part apply only to authorizations and station licenses granted under the competitive bidding procedures of this section. This subpart contains some of the procedures and requirements for the issuance of authorizations to construct and operate multipoint distribution services. One also should consult part 1, subpart Q of the Commission's rules, §§21.1 through 21.406 and 21.900 through 21.920 of this part, and other Commission rules of importance with respect to the licensing and operation of MDS stations.

[60 FR 36554, July 17, 1995]

§21.922 Authorized frequencies.

The frequencies in the MDS service through the competitive bidding process are in the frequency allocations table of §21.901 of this part.

[60 FR 36555, July 17, 1995]

§21.923 Eligibility.

Any individual or entity, other than those precluded by §§21.4 and 21.912 of this part, is eligible to receive a Basic Trading Area (BTA) authorization and a station license for each individual MDS station within the BTA. There is no restriction on the number of BTA

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authorizations or MDS station licenses, including multiple cochannel station licenses, sought by or awarded to a qualified individual or entity.

[60 FR 36555, July 17, 1995]

§21.924 Service areas.

(a) MDS service areas are regional Basic Trading Areas (BTAs) which are based on the Rand McNally 1992 Commercial Atlas & Marketing Guide, 123rd Edition, at pages 38–39. The BTA Map is available for public inspection at the public reference room, Multipoint Distribution Service, Video Services Division, Mass Media Bureau, Room 207, 2033 M Street, NW., Washington, DC.

(b) The following additions will be available for licensing separately as BTA-like areas: American Samoa; Guam; Northern Mariana Islands; San Juan, Puerto Rico; Mayagüez/Agua-dilla-Ponce, Puerto Rico; and the United States Virgin Islands.

(c) The area within the boundaries of a BTA to which a BTA authorization holder may provide Multipoint Distribution Service excludes the protected service areas of any incumbent MDS stations and previously proposed and authorized ITFS facilities, including registered receive sites.

[60 FR 36555, July 17, 1995, as amended at 60 FR 57367, Nov. 15, 1995]

§21.925 Applications for BTA authorizations and MDS station licenses.

(a)(1) An applicant must file a short-form application and, when necessary, the short-form application supplement, identifying each BTA service authorization sought.

(2) For purposes of conducting competitive bidding procedures, short-form applications are considered to be mutually exclusive with each other if they were filed for, and specified, the same BTA service area.

(b) Separate long-form applications must be filed for each individual MDS station license sought within its the protected service area of a BTA or PSA, including:

(1) An application for each E-channel group, F-channel group, and single H, 1, and 2A channel station license sought;

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(2) An application for authority to operate at an MDS station in the area vacated by an MDS station incumbent that has forfeited its station license; and

(3) An application for each ITFS-channel group station license sought in accordance with §§ 74.990 and 74.991.

(c) The Commission shall grant BTA authorizations to auction winners as set forth in § 21.958.

(d) No long-form application filed by the BTA authorization holder will be accepted prior to completion of the competitive bidding process and no long-form application will be granted until expiration of the 30-day petition to deny period following the public notice listing of the application as being accepted for filing

(e) Applicants may use the electronic filing procedures to file both the Multipoint Distribution Service short-form and long-form applications with the Commission.

[60 FR 36555, July 17, 1995, as amended at 60 FR 57367, Nov. 15, 1995]

§ 21.926 Amendments to long-form applications.

(a) A Multipoint Distribution Service long-form application may be amended as a matter of right up to the date of the public notice announcing the application has been accepted for filing provided that:

(1) The proposed amendments do not amount to more than a *pro forma* change of ownership and control;

(2) The Commission has not otherwise forbidden the amendment of pending applications.

(b) Requests to amend a long-form application placed on public notice as being accepted for filing may be granted only if a written petition demonstrating good cause is submitted and properly served on the parties of record.

[60 FR 36555, July 17, 1995]

§ 21.927 Sole bidding applicants.

Where the deadline for filing MDS short-form applications has expired and a particular BTA service area has been specified in a single short-form application only, the applicant shall be

named the auction winner for that BTA authorization.

[60 FR 36555, July 17, 1995]

§ 21.928 Acceptability of short- and long-form applications.

The acceptability of short- and long-form applications will be determined according to the requirements of §§ 21.13, 21.15, 21.20, 21.21 and 21.952.

[60 FR 36555, July 17, 1995]

§ 21.929 Authorization period for station licenses.

(a)(1) A BTA authorization will be granted for a term of ten years, terminating ten years from the date of the Commission declared bidding closed in the MDS auction.

(2) A BTA authorization shall automatically terminate without further notice to the licensee upon expiration of the ten-year license term unless prior thereto an application for renewal of such license has been filed with the Commission.

(b) Notwithstanding § 21.45, each new MDS station licensed within a BTA or PSA will be granted for a term of ten years, terminating ten years from the date the Commission declared bidding closed in the MDS auction.

[60 FR 36555, July 17, 1995, as amended at 60 FR 57367, Nov. 15, 1995]

§ 21.930 Five-year build-out requirements.

(a)(1) A BTA authorization holder has a five-year build-out period, beginning on the date of the grant of the BTA authorization and terminating on the 5th year anniversary of the grant of the authorization, within which it may develop and expand MDS station operations within its service area.

(2) This period is not extended by the grant of subsequent authorizations (*i.e.*, grant of a station license or modification).

(3) Timely certifications of completion of construction for each MDS station within a BTA or partitioned service area must be filed upon completion of construction of a station.